

Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Bill 2023

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Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000
Via email: SDRIC@parliament.qld.gov.au

18 December 2023

To whom it may concern,

Re: Submission – Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Bill 2023

The Queensland Small Business Commissioner (QSBC), including the Small Business Commissioner and supporting office, welcomes the opportunity to provide feedback to the Legal Affairs and Safety Committee in relation to the Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Bill 2023 (the Bill).

The QSBC is established under the *Small Business Commissioner Act 2022*, and one of the main objectives is to enhance the operating environment for small businesses in Queensland. This includes advocating on behalf of the almost 28,000 small businesses in the retail trade industry¹, on matters of relevance to them.

The QSBC notes that the Queensland Government proposes to prohibit the sale of knives and other items to minors; and introduce measures supporting this reform including displaying signage regarding the prohibition of sales to minors, not advertising items as 'suitable for combat', and requiring retailers to ensure secure storage of certain items.

While the QSBC appreciates the objective of the Bill to reduce knife crime and associated youth offending, and to enhance community safety, the QSBC does have some concerns about the time and financial impost on small business retailers. The QSBC provides the following feedback and recommendations on the Bill's proposed amendments to the *Summary Offences Act 2005* (SOA) for consideration by the committee.

¹ Australian Bureau of Statistics. *ABS 8165.0 Counts of Australian Businesses, Including Entries and Exits 2021-22*.

1. Division 4B, Sections 19G and 19I – Sale of controlled items to minors

These sections of the SOA introduce criminal sanctions to commercial sellers (19G) and their employees (19I) for selling a controlled item to a minor, and establishes a penalty structure for these offences which increases with subsequent offences.

The QSBC is concerned about the high penalties proposed for a first offence against sections 19G and 19I – 140 penalty units (\$21,672) for commercial sellers and 20 penalty units (\$3,096) for employees. Red tape and regulatory burden are a key issue limiting business growth, with significant time and financial imposts on small business. A recent report from Business Chamber Queensland found that the most expensive stage of regulatory compliance is the phase where small businesses are working to implement and comply with the regulatory requirements². In the QSBC's experience, small businesses have trouble staying across emerging regulatory requirements, and often have limited financial capacities to absorb heavy penalties, unlike larger retailers.

The QSBC recommends that the Queensland Police Service (QPS) take an education-first approach to enforcement of sections 19G and 19I, and only issue penalties to small businesses in the case of repeat breaches by a business, or a refusal by a business to comply. This will strike a balance between promoting responsible sales practices and ensuring the economic viability of small businesses.

The QSBC also notes a defence will be available for the offences under sections 19G and 19I of the SOA, where the person can prove that they sighted acceptable evidence of age and had no reason to believe the evidence produced was false. The QSBC is concerned about the onus of proof placed on the seller to provide this proof, and the administrative burden required to not only collect this evidence in the first place but to store it for an interminable amount of time in case it is required. It is important to note that many small businesses do not have video surveillance (CCTV) installed on their premises or the ability to maintain copies of CCTV footage for extended periods. This evidentiary requirement may require small businesses to install CCTV and upgrade data storage systems – placing an additional financial burden on small businesses.

The QSBC recommends that clarity is given as to what kind of material or procedures will constitute proof under the defence sections of 19G and 19I. For example, is a small business required to keep a record of every single transaction involving a controlled item noting they sighted evidence of age? Or is CCTV footage required? Or is the existence of a written procedure relating to the sale of controlled items enough to assume the seller adheres to the reforms sufficient?

2. Division 4B, Section 19H – Commercial seller must instruct employees about sale of controlled items

This section of the SOA introduces an obligation on commercial sellers to instruct their employees not to sell a controlled item to a minor, and to sight acceptable evidence of age prior to selling a controlled item unless satisfied that the person is an adult, inform them of the offence under section 19I, and obtain written acknowledgement from the

² Business Chamber Queensland. *Efficient Regulation Report 2023: Measuring the red tape burden on Queensland business*. Brisbane: 2023, 13.

employee that they received the instructions and offence warning. Failure to do so will result in a penalty of 40 penalty units (\$6,192).

As previously stated, the QSBC is concerned about the administrative burden this requirement places on small businesses, especially those who use casual staff or have high seasonal turnover of staff. Further, while some retailers have experience in requesting and verifying proof-of-age (such as those who sell liquor and tobacco products), for many retailers this requirement will be entirely new to them and their staff.

The QSBC recommends that the Queensland Government fund staff training on verifying proof-of-age, for impacted small businesses. In addition, the heavy penalties will be financially onerous and impact small business viability, so the QSBC recommends that QPS take an education-first approach to enforcement of section 19H.

3. Division 4B, Section 19K – Commercial seller must display prohibition signs

This section of the SOA requires that a commercial seller must display prohibition signs which communicate the prohibition of the sale of controlled items to minors. Failure to do so will result in a penalty of 20 penalty units (\$3,096).

The QSBC is concerned about the requirement to display this signage at each place the controlled item is displayed or at each point of sale, which again places an administrative burden on small businesses, and the visual impact the signs might have on the overall shopping experience for customers, potentially impacting sales and revenue. As previously stated, small businesses struggle to stay across emerging regulatory requirements, and may inadvertently not comply with the new reforms due to lack of awareness or misunderstanding.

The QSBC recommends that clear guidelines be provided to impacted small businesses to help them comply with the new requirements. In addition, the heavy penalties will be financially onerous and impact small business viability, so the QSBC recommends that QPS take an education-first approach to enforcement of section 19K.

4. Division 4B, Section 19L – Commercial seller must secure particular controlled items

This section of the SOA imposes an obligation on commercial sellers to securely store particular controlled items (such as daggers, swords, and spear-guns) in a locked room, cage, cabinet, or securely tethered. Failure to do so will result in a penalty of 50 penalty units (\$7,740).

The QSBC is concerned that this new obligation for secure storage poses operational challenges for small businesses, particularly those with limited space and resources. Implementing measures such as storing items in locked rooms, cages, cabinets, or securely tethering them may prove logistically challenging for businesses with a smaller operational space, potentially affecting their daily operations. Also, investing in secure storage solutions, whether it be locks, containers, or tethering mechanisms, imposes additional financial burdens on small businesses, impacting their bottom line.

Small businesses in the retail trade industry in Queensland have one of the lowest profit margins of all industries (8% as of 30 June 2022)³. As the cost of staffing, goods, and services continues to increase, and consumers continue to reduce their discretionary spend, it is anticipated this profit margin will further tighten. This leaves small businesses with little latitude to absorb the direct costs of installing secure storage or other measures such as tethering.

The QSBC recommends clear guidelines and educational support to assist small business owners in understanding and complying with the new secure storage requirements, and that these resources outline practical and cost-effective approaches to secure storage are provided with the guidance material to assist small businesses in implementing the reforms.

The QSBC further recommends that a rebate or grant funding be provided to small business retailers who are required to install storage or other measures to securely store particular controlled items under section 19L. This will help offset the cost impacts and minimise the financial burden on small businesses.

In addition, the heavy penalties will be financially onerous and impact small business viability, so the QSBC recommends that QPS take an education-first approach to enforcement of section 19L.

5. Other feedback

While outside the legislative scope of the Bill, the QSBC makes the following recommendations to support the implementation of the Bill:

a) An education campaign to inform the public about the reforms should be undertaken, to reduce the risk of aggression towards retail staff

While many consumers will understand and support the reforms, some may be frustrated that certain items are secured or that they may be asked for identification if they appear under-age, which may lead to incidents of verbal abuse or violence towards retail workers. Since the pandemic, aggressive behaviour towards retail workers has accelerated – a recent retail crime study found that 88% of retail workers have experienced abuse or aggressive behaviour⁴, and that hardware and sports and recreation stores have the highest frequency of these incidents⁵. As these types of retailers typically sell knives and other items subject to these reforms, consideration should be given to how these reforms may further impact the health and safety of retail workers.

The QSBC recommends that the reforms be accompanied by an education campaign to inform the public about the changes and encourage the respectful treatment of retail staff. This will ensure that the public is well informed in advance of the changes, with an aim to reduce the incidence of aggression and violence towards retail staff.

³ Queensland Small Business Commissioner. *Queensland Small Business Outlook: Beyond the pandemic*. Brisbane: Queensland Government, 2023, 19.

⁴ Griffith Criminology Institute. *The 2022 Australia & New Zealand Retail Crime Study*. Brisbane: 2022, 23.

⁵ Griffith Criminology Institute. *The 2022 Australia & New Zealand Retail Crime Study*. Brisbane: 2022, 6.

b) Small business owners and their staff should be provided with clear guidance material and a reasonable timeframe to implement the reforms

As previously noted, red tape and regulatory burden place significant time and financial imposts on small business. Due to small businesses being time-poor and having a fear of getting things wrong and being penalised, there is a risk that some small businesses may misunderstand the reforms or over-regulate them (e.g., secure items that don't need to be secured, or restrict sales on items out of scope of the reforms). It is imperative that small businesses are well supported to comply with these new reforms, and that they are provided with a reasonable lead time to both understand and implement them.

The QSBC recommends that the Queensland Government provide clear and easy to understand guidance material on the reforms including, which items are restricted for sale and which are not; which items are required to be securely stored and how; and where and how signage must be displayed etc. The QSBC further recommends that small businesses be given a minimum of six-months' notice to comply once the reforms are passed.

Thank you for the opportunity to provide this feedback. If you have any further questions, please contact Rebekah Godbold, Principal Policy Officer, Strategy and Engagement on [REDACTED] or email [REDACTED]

Yours sincerely

[REDACTED]
Dominique Lamb
Small Business Commissioner